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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/482,085	01/13/2000	HIDEO ANDO	0039-7513-2S	6528

7590

05/21/2002

OBLON SPIVAK MCCLELLAND  
MAIER & NEUSTADT PC  
FOURTH FLOOR  
1755 JEFFERSON DAVIS HIGHWAY  
ARLINGTON, VA 22202

EXAMINER

NGUYEN, HUY THANH

ART UNIT

PAPER NUMBER

2615

DATE MAILED: 05/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/482,085

Applicant(s)

ANDO ET AL.

Examiner

HUY T NGUYEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 February 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3-5,7,9,11 and 14-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-5,7,9,11 and 14-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. Claims 3 and 20-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 3 called for a hardware used for recording stream data on a recording medium . However, it is noted that there is no recitation for any means or circuit of the hardware in the body of the claims to perform the description as being recited in the body of claims . Therefore, it is not clear how the data is generated and recorded as data objects, control information and data packets.

Claim 20-23 called for an apparatus . However, it is noted that there is no recitation for any means or circuit of the hardware in the body of the claims to perform the description as being recited in claims .

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title.

3. Claims 3-5, 15 and 19-24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 3-5,15 and 19-24 direct to data stored on an information-recording medium. Since the data does not provide any structural functional interrelationship to the medium and or read out from the medium to impart with structural software or hardware components to provide certain function that can be processed by a

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computer, the claimed data stored on the medium does not make it statutory (See MPEG 2100).

Applicants argue that the recording medium has being stored with descriptive data is related to an article of manufacture . In response, it is noted that the applicants' argument is noted recited in claims . Nowhere in claims or the specification recite or discloses an article of manufacture as argued by applicant .

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5. Claims 19-24 is rejected under 35 U.S.C. 102(e) as being anticipated by Azadegan et al (5,819,004).

Regarding claim 24, Azadegan teaches a recording medium on which has been stored with management information and stream data packets (Figs. 40-56, column 61).

6. Claims 3-5,7,9,11 and 15-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Kikuchi et al (6,112,009)

Regarding claims 3-5,7,9,11 and 15-28 ,Kikuchi discloses a recording and reproducing apparatus for recording stream data of objects on and from a medium( Figs. 6, 32-39, 44, and 47,50. The apparatus comprises :

means for recording data of objects on a recording medium , the stream data formed as data packs, each pack comprises data packets, a data packet comprises an application packet (Figs. 6, 35-39) and each packet has a time stamp and ID (columns 18, 20-21). . Kikuchi further teaches partial application packets obtained by slitting the application packet at boundary of stream packets (Fig. 44, column 22).

Kikuchi further teaches a reproducing means (Fig. 47) for reproducing the stream data from the recording medium.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 3-5,7,9,11, 15-18 and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Azadegan in view of and Thompson (5,856,973) .

Regarding claims 3-5,7,9,11,15-18 and 25-28, Azadegan discloses a recording and reproducing apparatus for recording data in accordance with MPEG system on a and from a medium (Figs. 1, 44-46). The apparatus comprises :

means for recording data of objects on a recording medium , the stream data formed as data packs, each pack comprises data packets and a data packet comprises an application packet (Figs. 40-46, column 61,62 and 66). Azadegan fails to teach that the application packets include partial application packets.

Thompson discloses an apparatus having a processing means for processing partial application packets and inserting the partial application packets at an boundary of an application packet (Figs. 5-6, column 4, line 64-68) .

It would have been obvious to one of ordinary skill in the art to modify Azadegan with Thompson by using a processing means as taught by Thompson for generating partial application packets and slitting partial application packets at a boundary of the application packet thereby enhancing the capacity of Azadegan apparatus to produce additional application.

9. Claim 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kikuchi et al in view of Yoshinobu et al.

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Regarding claim 14, Kikuchi discloses a recording and reproducing apparatus for recording stream data of objects on and from a medium( Figs. 6, 35-39, 44, and 47,50. The apparatus comprises :

means for recording data of objects on a recording medium , the stream data formed as data packs, each pack comprises data packets, a data packet comprises an application packet (Figs. 6, 35-39) and each packet has a time stamp and ID (columns 20-21). Kikuchi further teaches partial application obtain by slitting the application packet at boundary of stream packets (Fig. 44, column 22) .

Kikuchi fails to teach the use of EPG for programming the recording apparatus to record a select channel.

Yoshinobu teaches a recording apparatus having a control means using EPG for programming the recording apparatus for recording a MPEG stream program (column 23-25,43-52) . It would have been obvious to one of ordinary skill in the art to modify Kikuchi with Yoshinobu by using a control means as taught by Yoshinobu with the apparatus of Kikuchi for receiving EPG and using EPG to program the recording apparatus to record a select channel thereby enhancing the capacity of the apparatus of Kikuchi to allow the user record a selected channel.

10. Claim 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshinobu et al in view of Thompson (5,856,973).

Yoshinobu discloses a recording apparatus (Figs. 10 and 18-19, columns 3-4, 23-25 and 43-52) for recording a digital broadcast video signal from a receiving means. The apparatus comprises:

means for designating a specific broadcast program based on a displayed content of an electronic program guide (column 23-25);

informing the digital broadcast tuner (program selector) (column 13, lines 43-52) of the specific broadcast program; and

receiving from the digital broadcast tuner the specific broadcast program to record a bit stream of the specific broadcast program in the data area of the information medium (column 23-25) and record management information (UTOC or TOC) in a management area (column 30, Fig. 12). Yoshinobu further teaches that program is stored with MPEG standard but fails to specifically teach that the program data is formed as data packs having application packets and partial application packets.

Thompson discloses an apparatus for processing stream data packets of MPEG system, each stream data packet comprises an application packet and partial application packets (Figs. 5-6, column 4, lines 58-68).

It would have been obvious to one of ordinary skill in the art to modify Yoshinobu with Thompson by using a processing means as taught by Thompson with the apparatus of Yoshinobu means for generating application packets and partial application packets thereby allowing additional application can be transmitted and recorded.

### **Conclusion**



11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T NGUYEN whose telephone number is (703) 305-4775. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached on (703) 308-9644. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to TECH CENTER 2600 whose telephone number is (703) 306-0377.

  
HUYNH NGUYEN  
PRIMARY EXAMINER

H.N  
May 17, 2002